

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Noa Street-Sachs	Team: Squad #8	CCRB Case #: 201909069	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Thursday, 10/17/2019 8:45 AM	Location of Incident: § 87(2)(b)	Precinct: 114	18 Mo. SOL 4/17/2021	EO SOL 12/2/2021	
Date/Time CV Reported Thu, 10/17/2019 9:11 AM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Thu, 10/17/2019 9:11 AM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. DT3 Daniel Pelan	1778	952099	WARRSEC
2. POM Michael Fahrbach	06948	958566	WARRSEC
3. DT3 Michael Sinclair	3286	937545	WARRSEC
4. DT3 Peter Rivera	2996	956207	WARRSEC
5. POM Thomas Bates	01067	950055	WARRSEC
6. Officers			
7. SGT Claire Lindner	4739	955067	112 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. DT3 Joseph McCrain	3549	949295	WARRSEC

Officer(s)	Allegation	Investigator Recommendation
A. Officers	Abuse: Officers damaged § 87(2)(b)'s property.	§ 87(2)(b)
B.DT3 Daniel Pelan	Abuse: Detective Daniel Pelan entered § 87(2)(b) in Queens.	§ 87(2)(b)
C.POM Michael Fahrbach	Abuse: Police Officer Michael Fahrbach entered § 87(2)(b) in Queens.	§ 87(2)(b)
D.DT3 Michael Sinclair	Abuse: Detective Michael Sinclair entered § 87(2)(b) in Queens.	§ 87(2)(b)
E.DT3 Peter Rivera	Abuse: Detective Peter Rivera entered § 87(2)(b) in Queens.	§ 87(2)(b)
F.SGT Claire Lindner	Abuse: Police Officer Claire Lindner entered § 87(2)(b) in Queens.	§ 87(2)(b)
G.POM Thomas Bates	Abuse: Police Officer Thomas Bates entered § 87(2)(b) in Queens.	§ 87(2)(b)
H.DT3 Daniel Pelan	Abuse: Police Officer Daniel Pelan searched § 87(2)(b) in Queens.	§ 87(2)(b)
I.POM Michael Fahrbach	Abuse: Police Officer Michael Fahrbach searched § 87(2)(b) in Queens.	§ 87(2)(b)
J.DT3 Michael Sinclair	Abuse: Detective Michael Sinclair searched § 87(2)(b) in Queens.	§ 87(2)(b)
K.DT3 Peter Rivera	Abuse: Detective Peter Rivera searched § 87(2)(b) in Queens.	§ 87(2)(b)
L.SGT Claire Lindner	Abuse: Police Officer Claire Lindner searched § 87(2)(b) in Queens.	§ 87(2)(b)

Officer(s)	Allegation	Investigator Recommendation
M.POM Thomas Bates	Abuse: Police Officer Thomas Bates searched § 87(2)(b) in Queens.	
N.DT3 Daniel Pelan	Abuse: Detective Daniel Pelan failed to provide § 87(2)(b) with a business card.	

Case Summary

On October 17, 2019, § 87(2)(b) filed this complaint by phone with the CCRB.

On October 17, 2019, at approximately 8:30 a.m., § 87(2)(b) returned to her apartment at § 87(2)(b) and noticed approximately five officers standing in the hallway and that her front door was damaged. § 87(2)(b) believed the officers had hit the door with a tool which caused this damage (**Allegation A:** § 87(2)(g)). These officers, all from the Queens Warrant Section, were Det. Daniel Pelan, Det. Peter Rivera, Det. Michael Sinclair, PO Michael Fahrbach, PO Claire Lindner, and PO Thomas Bates. PO Lindner has since been promoted to Sergeant, but is being referred to by her rank at the time of the incident.

§ 87(2)(b) opened the door and entered her apartment. The officers immediately walked into the apartment after her. § 87(2)(b) stood in the middle of the hallway and saw officers open a closet door in the hallway and look in. Officers entered § 87(2)(b) bedroom and an officer possibly entered the kitchen (**Allegations B-M:** § 87(2)(g)). Det. Pelan told § 87(2)(b) that they had a warrant and were searching for a person. He displayed a piece of a paper with a photo on it which § 87(2)(b) recognized to be an arrest photograph of her son, § 87(2)(b). § 87(2)(b) was informed that § 87(2)(b) had not appeared for parole.

Once outside of the apartment, Det. Pelan took a business card from another officer, scratched off information on the card, and wrote his own name, phone number, and shield number. § 87(2)(b) was unsure whether he had written his command (**Allegation N:** § 87(2)(g)).

§ 87(2)(b) was not arrested or issued as summons as a result of this incident. The officers were not equipped with body-worn cameras and the agency is not in possession of video footage pertaining to this incident.

Findings and Recommendations

Allegation (A) Abuse of Authority: Officers damaged § 87(2)(b) s property.

In her verified statement on November 26, 2019, § 87(2)(b) stated that on October 17, 2019, at approximately 8:30 a.m., she returned to her apartment building at § 87(2)(b) § 87(2)(b). As she exited the elevator on her floor and walked towards her apartment door, she noticed approximately five officers standing in the hallway. § 87(2)(b) noticed that her front door, which was made of metal, had circular shaped dents. She could not recall how many dents the door had, but stated that they were primarily located on the top left corner of the door and in the middle of the door. It appeared that paint had started chipping off the door as well. § 87(2)(b) later noticed that there was a half inch gap between the doorframe and the door itself, such that one was able to see inside the apartment from outside of the door. The gap, which was on the top half of the door, was located on the side opposite of the hinges. The doorknob was also loose as a screw had fallen off. § 87(2)(b) confirmed that prior to this incident, her door was not damaged in any way. § 87(2)(b) believed that the officers had hit the door with a tool which caused the dents, but did not see any tools herself.

At the conclusion of the incident, once the officers had walked out of § 87(2)(b) apartment, § 87(2)(b) attempted to close her door, but noticed that the door was jammed. She eventually opened her door, exited her apartment, and saw the officers waiting for the elevator. She told Det. Pelan that they had broken her door and that she could not lock it or it shut properly now. § 87(2)(b) also told them that they should not

just leave without addressing the damages. Det. Pelan walked back to her front door, looked at it, and apologized.

§ 87(2)(b) called Det. Pelan at the number he had provided on a business card and informed him that she would not pay for the damages and they would have to take care of it. She explained to him that she could not leave her door open in that manner because she must take her son to school in the morning and that anybody could push the door in from the outside. Det. Pelan apologized and stated that he would fill out the appropriate paperwork. He stated that if she had any problems, she could call him back and inform him if the door was not repaired that day. § 87(2)(b) called Det. Pelan back the next day and told him that nobody came to fix the door. Det. Pelan called back twice after this to check whether the door had been repaired and apologized both times (Board Review 01).

During a follow up phone call on January 15, 2020, § 87(2)(b) informed that her apartment door was in the same condition as it was when the officers first damaged it. There was still a gap in the door when it was closed (Board Review 02).

§ 87(2)(b) provided a series of photographs of her damaged door via email and text to the investigation (Board Review 03-08).

Det. Pelan testified that when he approached § 87(2)(b) apartment door and began knocking on it, he believed the door was open because it was loose and was not secured well. When he did a regular knock, he could feel that there was “give” in the door and the whole door was rattling. The door did not open as he was knocking, but one could see the inside of the door and the door was moving slightly.

Det. Pelan denied damaging § 87(2)(b) door and stated that the door was in the same exact condition when he arrived as when he left. Det. Pelan denied that any other officers on scene damaged the door. Det. Pelan was informed of the specific damage to the door that was alleged and he denied damaging the door in any of these ways or witnessing any other officer do so. Det. Pelan did not remember if the door was damaged in any of the ways described when Det. Pelan initially arrived, but he remembered there was leeway in the door and it was moving the second he knocked on it, almost to the point that he thought it was open. Besides this, there did not seem to be anything dysfunctional about the door.

Det. Pelan was not sure if he had contact with § 87(2)(b) over the phone after the incident about damage to the door. Det. Pelan remembered that when he was leaving, § 87(2)(b) said, “Oh, did you break my door?” and Det. Pelan said, “No, your door’s exactly how it was. If you wanna lock it, I’m not gonna leave it. You’re saying your door doesn’t shut.” Det. Pelan left and § 87(2)(b) locked the door with a key and the door did not open.

Det. Pelan was shown a series of photographs provided to the investigation by § 87(2)(b) and his attention was directed to visible damage of the door (Board Review 03-05, 07-08). Det. Pelan denied that any of the photos aided in his recollection of damaging § 87(2)(b) door or witnessing any other officer do so (Board Review 09).

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Allegation (B) Abuse of Authority: Detective Daniel Pelan entered § 87(2)(b) in Queens.

Allegation (C) Abuse of Authority: Police Officer Michael Fahrbach entered § 87(2)(b)

Allegation (D) Abuse of Authority: Detective Michael Sinclair entered § 87(2)(b) in Queens.

Allegation (E) Abuse of Authority: Detective Peter Rivera entered § 87(2)(b) in Queens.

Allegation (F) Abuse of Authority: Police Officer Claire Lindner entered § 87(2)(b) in Queens.

Allegation (G) Abuse of Authority: Police Officer Thomas Bates entered § 87(2)(b) in Queens.

Allegation (H) Abuse of Authority: Police Officer Daniel Pelan searched § 87(2)(b) in Queens.

Allegation (I) Abuse of Authority: Police Officer Michael Fahrbach searched § 87(2)(b) in Queens.

Allegation (J) Abuse of Authority: Detective Michael Sinclair searched § 87(2)(b) in Queens.

Allegation (K) Abuse of Authority: Detective Peter Rivera searched § 87(2)(b) in Queens.

Allegation (L) Abuse of Authority: Police Officer Claire Lindner searched § 87(2)(b) in Queens.

Allegation (M) Abuse of Authority: Police Officer Thomas Bates searched § 87(2)(b) in Queens.

In her verified statement on November 26, 2019, § 87(2)(b) stated that on October 17, 2019, her older son, § 87(2)(b) § 87(2)(b) did not live in the apartment but was listed on the lease. § 87(2)(b) received mail at this address and had been receiving mail there for a little over a year. At the time of this incident, § 87(2)(b) had been staying elsewhere, at an address § 87(2)(b) did not know, for a little less than a year. § 87(2)(b) stayed overnight at some point during the summer of 2019, but § 87(2)(b) was not sure how many times he had stayed. § 87(2)(b) parole officer had visited him in the apartment at some point.

On October 17, 2019, at approximately 8:30 a.m., § 87(2)(b) exited the elevator at § 87(2)(b) § 87(2)(b) in Queens and approached her apartment door. Det. Pelan asked her whether she lived in the apartment, to which she answered that she did. § 87(2)(b) noticed the damage to her door, as discussed above, after which she inserted her key into the lock, realized that it had already been unlocked, opened the door, and entered her apartment. § 87(2)(b) could not specify how wide she opened the door, but stated that she opened the door in the way that she would “normally” open it, and that it was not completely wide open but enough to let herself in. The officers immediately walked into the apartment after her and did not say anything as they followed her in. § 87(2)(b) believed that the officers had already entered her apartment. While she did not see them bang or kick the door, and they did not tell her that they did so at any point, the reason she believed this was because they walked in in a nonchalant manner as though they had already been there.

§ 87(2)(b) stood in the middle of the hallway and saw officers open a closet door in the hallway and look in, but she could not recall which officer did this. The officers walked past her through the hallway and appeared to have scattered throughout the apartment. § 87(2)(b) could not specify which officers went into which rooms, other than Det. Pelan and another officer entering her bedroom, and a third officer possibly entering the kitchen. § 87(2)(b) could not see from the hallway whether other officers were searching

through anything in particular in the kitchen, bathroom, or second bedroom. The officers did not ask § 87(2)(b) whether they could check her apartment. § 87(2)(b) stood in the hallway and asked the officers whether they could simply enter her apartment in that manner. She told them that they could not just come into her apartment without asking. § 87(2)(b) continued speaking, and continued to tell the officers that they did not even tell her and just walked into the apartment after her.

Det. Pelan informed § 87(2)(b) that they had a warrant and were searching for a person. He displayed a piece of a paper with an arrest photograph of § 87(2)(b) could not see whether the paper had § 87(2)(b) name on it. § 87(2)(b) could not recall whether anything was written on the piece of paper and whether there was anything on the paper besides the photo. § 87(2)(b) did not know what a warrant looked like and could not identify whether Det. Pelan had shown her a warrant. Det. Pelan asked whether § 87(2)(b) knew the person in the photo to which § 87(2)(b) told Det. Pelan that the photo was of her son. Det. Pelan then informed her that he had a warrant because her son had not appeared for parole. § 87(2)(b) continued to ask questions and asked Det. Pelan whether they could damage someone's door when the person living in the apartment was not present. Det. Pelan stated that they could do what they wanted to. Det. Pelan asked § 87(2)(b) whether there was a way for her to get in contact with him.

As § 87(2)(b) started to walk back to the front door with Det. Pelan and another officer, the other officers walked towards the front door as well. § 87(2)(b) could not recall which room they had exited from. As the officers were exiting the apartment, Det. Pelan asked § 87(2)(b) whether she was aware of where § 87(2)(b) was. After the incident concluded, § 87(2)(b) did not see anything in her apartment that indicated to her that any items had been moved. She did not feel that anything in the house was not the way it was prior to officers entering her house (Board Review 01).

When contacted by phone for follow up questions on January 15, 2020, § 87(2)(b) stated that in the few minutes that she spoke to the officers outside of her apartment door, she did not have any other conversation other than asking the officers whether they were here for a matter regarding her apartment. There was some laughter between the officers and her because she was about to turn around from her door because she thought she had come to the wrong door.

§ 87(2)(b) was initially uncertain about whether the officers asked whether § 87(2)(b) lived in the apartment, but then stated that the officers did not mention § 87(2)(b) in any context while outside her apartment. The officers mentioned that they heard a dog barking inside of her apartment. § 87(2)(b) inserted her key into the keyhole but could not recall whether she actually had to turn the key or whether she had already realized that the door was unlocked (Board Review 02).

Det. Pelan testified that he was visiting the location of § 87(2)(g) in Queens to attempt to apprehend a "subject" named § 87(2)(b) § 87(2)(b) who was wanted by New York State Parole. Det. Pelan was assigned the case regarding § 87(2)(b). The address was § 87(2)(b) approved parole release address and he had an active New York state parole warrant (Board Review 10). Prior to arriving at the location, Det. Pelan did additional computer checks and through the Domain Awareness System, § 87(2)(b) driver's license yielded that this was his address. Det. Pelan also did a conferral with Parole who stated that this was § 87(2)(b) address. Det. Pelan was not aware of anyone else who lived at the location. The warrant itself included § 87(2)(b) last known addresses and it listed this location on all § 87(2)(b) arrests dating back to 2016.

Det. Pelan believed that a parole warrant was technically an arrest warrant and granted officers authority to enter locations. In this instance, the subject was "wanted" and "absconded" for an active warrant.

Det. Pelan walked up to § 87(2)(b) with his partners, heard a dog barking and voices from inside, which he attributed to either a television or people talking, and began knocking. He believed the door was open because it was loose and was not secured well. No one answered, but from what Det. Pelan remembered, the dog was barking and scratching at the door. Det. Pelan continued knocking, for a total of approximately fifteen minutes, and there was no response after which § 87(2)(b) exited the elevator and said this was her apartment. Det. Pelan said, “We have a warrant for your son. This is his address.” § 87(2)(b) said, “He’s not home” and “You can come in.” Det. Pelan said, “We believe there might be someone inside” to which § 87(2)(b) said, “Okay” and opened her door with a key. The conversation with § 87(2)(b) prior to Det. Pelan entering her apartment was brief. When asked about what, if any, questions Det. Pelan asked § 87(2)(b) Det. Pelan said, “If you know where he’s staying, if you could have him call me. I’ll call him if you have a phone number. He’s just wanted by parole.”

Det. Pelan and the officers entered the apartment and looked around in the apartment anywhere an individual may be or could conceal themselves. Everyone Det. Pelan was with entered the apartment except for Det. McCrain who remained outside in the van securing another “subject.” § 87(2)(b) was not there. Det. Pelan searched in closets, in a bed, behind the door, and under a bed if it was raised. Det. Pelan did not remember which closets he searched or behind which doors, but he reiterated that he searched anywhere someone could have hid which would have been every door and every closet. Det. Pelan said in the interview that if there was a door, he would open the door. If there was enough room where an individual could hide, he looked, and if not, he kept searching. Det. Pelan did not know how big the closet that he searched was. In all the locations he searched, he believed an adult person could fit. Det. Pelan did not open any drawers or search where someone could not fit. Det. Pelan did not remember where the other officers searched because they looked around as quickly and safely as possible. The officers were in the apartment for a total of approximately five minutes. § 87(2)(b) said she was the mother of § 87(2)(b) and Det. Pelan asked where he might be to which § 87(2)(b) said she did not know and that he had not been there (Board Review 09).

The investigation obtained the parole warrant for § 87(2)(b) which listed the address as § 87(2)(b). The warrant listed five previous arrests dating back to 2016, all of which listed the last known residence as § 87(2)(b) § 87(2)(b) (Board Review 10).

Det. Pelan was shown the parole warrant during his CCRB interview and he confirmed that this was the parole warrant that he had at the time of the incident (Board Review 09).

The investigation obtained the DD5 pertaining to the officers’ visit to § 87(2)(b) residence which stated that the investigating officer visited § 87(2)(b) to attempt to apprehend § 87(2)(b) and that the location was his parole release address. The DD5 noted that Det. Pelan spoke to § 87(2)(b) at the location and she informed that § 87(2)(b) had not been home in a few weeks (Board Review 11).

Per People v Paige, 77 A.D.3d 1193 (2010), a parole or arrest warrant carries with it the limited authority to enter a dwelling in which the suspect lives and where the officer has a reasonable belief that the suspect is within (Board Review 12).

Det. Pelan and § 87(2)(b) provided varying accounts as to how the officers entered her apartment. Det. Pelan said he heard noises and voices coming from inside the apartment, which he attributed to either people talking or a television, while § 87(2)(b) stated that the officers simply followed her into her apartment after she entered it without any discussion about § 87(2)(b) § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(g)

Allegation (N) Abuse of Authority: Detective Daniel Pelan failed to provide § 87(2)(b) with a business card.

In her verified statement, § 87(2)(b) stated after the officers had left her apartment and she informed Det. Pelan that they had broken her door, Det. Pelan walked back to her front door, looked at it, and apologized. Det. Pelan then took a business card from another officer, scratched off information on the card, and wrote his own name, phone number, and shield number. § 87(2)(b) was unsure whether Det. Pelan wrote his command (Board Review 01).

Det. Pelan testified that he provided § 87(2)(b) with a contact card while inside the apartment and said, “If you can get in touch with him or if you know anything, just give me a call.” Det. Pelan believed he provided his own contact card. Det. Pelan did not hear § 87(2)(b) request a contact card. Det. Pelan did not know if any of his partners provided a card to § 87(2)(b). When asked about his knowledge of the Right to Know Act in regards to providing business cards, Det. Pelan said he was the lead officer of the case and wanted his information to get to the “subject”. If someone requested one of the officer’s cards, Det. Pelan believed it would have been provided. Det. Pelan denied refusing to provide a business card in any way or witnessing any other officer do so.

Det. Pelan was informed that it was alleged that an officer took a business card from another officer, scratched off the information, and wrote his name, phone number and shield number on a different card. Det. Pelan did not know if he did this, but said if he did not have his card on him or had handed his supply out prior to arriving, he would write down his information on someone else’s card. He had seen this done before. Det. Pelan did not remember if he carried his own cards with him on the day of this incident (Board Review 09).

The DD5 pertaining to this incident noted that § 87(2)(b) was provided with the investigating officer’s contact information and that § 87(2)(b) stated she would contact the investigating officer if she obtained any information regarding § 87(2)(b) (Board Review 11).

Per NYPD Patrol Guide Procedure 203-09, an officer is required to offer a Right to Know Act business card upon the conclusion of law enforcement activities, except in cases when a summons is issued or an arrest is made (Board Review 14).

According to New York Administrative Code Law 14-174 (b), during a law enforcement activity, an officer shall identify him or herself to the person who is the subject of such law enforcement activity, provide such person an explanation of the reason for such law enforcement activity, and offer a business card to such person at the conclusion of any such activity that does not result in an arrest or summons (Board Review 24).

§ 87(2)(g)

Civilian and Officer CCRB Histories

- This is the first CCRB complaint to which § 87(2)(b) has been a party (Board Review 15).
- Det. Pelan has been a member of service for nine years and has been a subject in six CCRB complaints and 13 allegations, of which five were substantiated. Case 201505480 involved a substantiated premises entered and/or searched allegation and a substantiated refusal to provide name/shield number allegation for which Det. Pelan was found not guilty at trial and no penalty was imposed. Case 201505480 also involved a substantiated stop allegation. The board recommended charges and the NYPD imposed a forfeiture of three vacation days. Case 201905010 involved a substantiated entry of premises allegation and a substantiated search of premises allegation for which the board recommended charges and is currently pending the NYPD's disposition (Board Review 16).
- Det. Rivera has been a member of service for seven years and has been a subject in six CCRB complaints and nine allegations, of which none were substantiated. § 87(2)(g)
- Det. Fahrback has been a member of service for five years and has been a subject in four CCRB complaints and six allegations, of which none were substantiated. § 87(2)(g)
- Det. Sinclair has been a member of service for 16 years and has been a subject in 10 CCRB complaints and 18 allegations, of which none were substantiated. § 87(2)(g)
- Det. Bates has been a member of service for nine years and has been a subject in six CCRB complaints and 12 allegations, of which two were substantiated. Case 201802913 involved a substantiated entry of premises allegation and a substantiated stop allegation. The board recommended command discipline B and the NYPD imposed no penalty (Board Review 20).
- Sgt. Lindner has been a member of service for seven years and has been a subject in two CCRB complaints and five allegations, of which none were substantiated. § 87(2)(g)

Mediation, Civil and Criminal Histories

- § 87(2)(b) declined to mediate this complaint (Board Review 02).
- According to the New York City Office of the Comptroller, § 87(2)(b) had not filed a Notice of Claim regarding this incident as of April 21, 2020 (Board Review 22).

- § 87(2)(b), § 87(2)(c)

Squad No.: 8

CCRB Case # 201909069

Investigator: Noa Street-Sachs Inv. Street-Sachs 04/19/2021
Signature Print Title & Name Date

Squad Leader: Ethan De Angelo IM Ethan De Angelo 4/20/2021
Signature Print Title & Name Date

Reviewer: _____
Signature Print Title & Name Date